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FISCAL IMPACT STATEMENT

LS 6709

BILL NUMBER: SB 346

NOTE PREPARED: Jan 4, 2010

BILL AMENDED:

SUBJECT: Oversight of Public Money.

FIRST AUTHOR: Sen. Mrvan

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: *Indiana Gaming Commission Jurisdiction:* The bill provides that the Gaming Commission has continuing jurisdiction over riverboat economic development agreements and incentive payments, regardless of the date of the development agreement. It establishes reporting requirements for the recipients of incentive payments under the agreements.

Municipal Benefit Entities: The bill provides that: (1) a contributing municipality shall after June 30, 2010, contractually require, as a condition of providing public money to a municipal benefit entity that is not required to be audited annually by the State Board of Accounts, that the municipal benefit entity must be audited by an independent accounting firm acceptable to the contributing municipality; (2) a municipal benefit entity must provide the results of an independent audit to the contributing municipality and, in the case of a municipal benefit entity that receives money under a gaming development agreement, to the Gaming Commission; (3) a municipal benefit entity shall pay the costs of an independent audit; and (4) providing an independent audit by a municipal benefit entity does not result in the municipal benefit entity being considered a public agency for purposes of the Open Door Law or the Public Records Law. It provides that a contributing municipality shall after June 30, 2010, contractually require, as a condition of providing public money to a municipal benefit entity, that the members of the governing body or chief executive officer of the municipal benefit entity shall annually file a verified written certification with each contributing municipality stating that a written statement of accounts has been prepared. It requires the fiscal body of a contributing municipality to review the amount of public money attributable to: (1) the municipality; (2) an agreement entered into by the municipality; or (3) an Enterprise Zone business; that is used as compensation to or reimbursement of expenditures of a member of the governing body or chief executive officer of a municipal benefit entity. It specifies that these reporting and review requirements do not require the disclosure of trade secrets or certain information regarding economic development negotiations that may be

excepted from disclosure under the Public Records Law. It also provides that the definition of "development agreement" also applies to agreements between a holder of an operating agent contract and a unit.

State Board of Accounts Audit Schedule: The bill provides that examinations of public entities by the State Board of Accounts shall be conducted on a schedule determined by the Board, except as specifically required by Indiana law. (Current law requires certain entities to be examined on an annual basis and other entities to be examined on a biennial basis.) It also specifies that examinations of certain entities must be conducted at least biennially.

Effective Date: July 1, 2010.

Explanation of State Expenditures: *Indiana Gaming Commission (IGC) Jurisdiction* - The bill will result in additional administrative responsibilities for the Indiana Gaming Commission (IGC). The fiscal impact that might arise from these new responsibilities is indeterminable. However, any additional expenses would be paid from Riverboat Wagering Tax revenue annually appropriated to IGC for administrative purposes. (Note: Current statute provides that sufficient funds are annually appropriated to the IGC from Riverboat Wagering Tax revenue deposited in the State Gaming Fund to administer the riverboat gambling laws.) In FY 2009, this distribution totaled about \$2.3 M. The 2009-2011 biennial budget bill appropriates \$3.5 M annually in FY 2010 and FY 2011 from the State Gaming Fund to the IGC for administrative purposes.

Municipal Benefit Entities (MBEs) - The bill establishes financial reporting requirements for MBEs. It defines an MBE generally as local economic development organizations, certain nonprofit entities, any instrumentality of a municipality, excluding the state, a municipality, or a public foundation for a nonpublic school, state educational institution, or private postsecondary educational institution. The bill provides for the following relating to MBEs:

(1) An MBE must hire an independent accounting firm to audit the use of public money, and must provide the results of the audit to the Indiana Gaming Commission.

(2) An MBE must file a verified written certification with each municipality that has contributed public money to the MBE. The certification must be signed, under penalty of perjury, by the members of the governing body and the chief executive officer of the MBE. It also must contain certain items as listed in the bill, all of which relate to the MBE's use of public monies. The certification must also be available for inspection to any member of the public upon request.

State Board of Accounts Audit (SBA) Schedule - The bill provides that examinations of public entities by the SBA shall be conducted on a schedule determined by the SBA, except as specifically required by state law. (Current law requires certain entities to be examined on an annual basis and other entities to be examined on a biennial basis.) This provision could result in a cost savings for the SBA, but the impact will ultimately be determined by the administrative actions of the SBA in conducting audits more or less frequently than is required under current law. This bill also specifies that examinations of certain entities must be conducted at least biennially. Those entities include schools that require a federal audit; towns with a population of less than 5,000 that require a federal audit; and all other entities that require a federal audit and are not audited annually on the schedule determined by the SBA.

Background Information - *IGC Oversight of Development Agreements:* The bill specifies that the IGC has continuing jurisdiction over "development agreements" between persons or local units and riverboat casino

owners or the operating agent of the French Lick casino; and “incentive payments” made by the casino owner or operating agent under the development agreements. It also authorizes the IGC to verify and ensure that development agreements, incentive payments, and disbursements of incentive payment money received by persons or local units comport with the purposes of the riverboat gambling laws and don't adversely affect the integrity of the riverboat gambling industry in Indiana. Current statute requires riverboat casino owners and the operating agent of the French Lick casino to report annually to the IGC the total dollar amounts and recipients of economic development payments made during the year by the casinos. The riverboat casinos also must report any other items related to the economic development payments that the IGC may require. Economic development payments by the riverboat casinos totaled \$119.7 M in CY 2008, with the cumulative total from CY 2003 to CY 2008 equal to \$711.6 M.

The bill requires recipients of riverboat incentive payments to annually report to the IGC an accounting of: (1) the incentive payment received by the recipient; and (2) any disbursements of incentive payment money received by the recipient. The bill also requires incentive payment recipients to furnish sufficient documentation to prove the validity of an incentive payment transaction to the IGC if the IGC requests this information. The bill requires that the report include the legal name of the incentive payment recipient and the date, amount, and purpose of each disbursement of incentive payment money. The bill also requires that these reports must be made available electronically through the computer gateway administered by the state Office of Technology.

Explanation of State Revenues:

Explanation of Local Expenditures: The new reporting requirements under the bill likely will have a minimal administrative impact on local units receiving riverboat incentive payments.

Explanation of Local Revenues:

State Agencies Affected: Indiana Gaming Commission; State Board of Accounts.

Local Agencies Affected: All municipalities; Local units receiving riverboat incentive payments.

Information Sources:

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